

PROGRAM INSTRUCTION

EOEA-PI-02-45

REF. EOEA-PI-02-30

To: Assisted Living Residences
Interested Parties

From: Lillian Glickman

Date: September 27, 2002

Subject: Filing and Adoption of Final Regulations – 651 CMR 12.00 et seq.
Assisted Living Residence Application Procedures and Certification Standards

Under the authority of the Massachusetts General Laws, Chapter 19A, s. 6 and St. 1994, c. 354, s. 10, the Executive Office of Elder Affairs (“Elder Affairs”) today filed Final Regulations (651 CMR 12.00 et seq.) for Assisted Living Residence Application Procedures and Certification Standards. **These regulations are intended to take effect on December 1, 2002** and will be published in the October 11, 2002 edition of the *Massachusetts Register*.

This program Instruction (PI) transmits an explanation of further amendments made since the time of our original notice of the Proposed Amended Regulations (*see* EOEA-PI-02-30, July 5, 2002). Notice of Proposed Amended Regulations was published in the *Massachusetts Register* on July 19, 2002, and a copy of the proposed amendments was distributed to advocates and service providers among the elder network. The Proposed Amended Regulations were also made available on the Internet at www.800ageinfor.com. On Friday, August 16, 2002, Elder Affairs convened a public hearing at One Ashburton Place, Boston, MA. Written comments were received at Elder Affairs’ offices through 5:00 p.m. on Friday, August 30, 2002. The Final Regulation filed today incorporates several changes that result from testimony and written comments received prior to the close of comment period.

A copy of the Final Regulations will soon be available on the Internet. To access these materials at www.800ageinfo.com, click on “Resources” and select “Downloadable Documents,” then choose “Housing” or “Legal.” If you have any questions, please call Joel M. Semuels, Esq., General Counsel or Maggie Dionne, Director of Housing and Supportive Services at (617) 727-7750.

SUMMARY OF FURTHER AMENDMENTS ASSISTED LIVING REGULATIONS 651 CMR 12.00 ET SEQ.

[1] 651 CMR 12.02 Definitions: *Limited Medication Administration*

The amended regulations, as proposed, would add the term, Limited Medication Administration (See EOPEA-PI-02-30). The Final Regulation retains this terminology, however, the word “insure” then appearing in the last sentence is deleted and “adequately verify” is inserted in place thereof.

[2] 651 CMR 12.04 General Requirements: Service Requirements (See 12.04(3)(d)) and Service Plan Requirements (See 12.04(6)(h))

The amended regulations, as proposed, would require Assisted Living Residences to provide or arrange for the availability of food selections that allow Residents to adhere to sodium restricted, sugar restricted and low fat diets. The amended regulations, as proposed, would also require Assisted Living Residences to meet minimum information standards when developing Resident service plans. The Final Regulation retains the amendments as proposed (See EOEA-PI-02-30). However, *in order to clarify that the duty is incumbent on the Residence to review its dietary plans incident to Residence Service Requirements per se, appropriate text is added* at the close of subsection 12.04(3)(d) (I.e., The Residence shall have a qualified dietician review the Residence’s dietary plans at least every six month.”), and the last sentence appearing in the proposed amended regulation at subsection 12.04(6)(h) is deleted.

[3] 651 CMR 12.05 Record Requirements: Resident Record (See 12.05(1)(f))

The amended regulation, as proposed would modify the minimum document set that the Residence would be required to maintain in the Resident record to comport with Self-Administered Medication and Limited Medication Administration practices (EOEA-PI-02-30). The Final Regulation retains the proposed amendments, corrects punctuation and *clarifies the record requirements governing Medication Administration.*

[4] 651 CMR 12.06 Staffing Requirements: Qualifications For Manager (See 12.06(1))

The amended regulations, as proposed, would delete the requirement the “no person working in an Assisted Living Residence shall have been convicted of a felony.” The amended regulations, as proposed, would have required only the manager of an Assisted Living Residence to have never been convicted of a felony (See EOEA-PI-02-30). *The Final Regulation reinstates the regulatory prohibition that no person working in an Assisted Living Residence shall have been convicted of a felony.*

[5] **651 CMR 12.07: Training Requirements:** General (See 12.07(1)(m))

The Final Regulation adds a parenthesis to the end of the sentence.

[6] **651 CMR 12.08 Resident Rights:** Residency Agreement (See 12.08(2)(a)(10)) and Disclosures (See 12.08(3)(g))

The amended regulations, as proposed, would expand the information that the Residence would be required to disclose in the Residency Agreement. The Final Regulation retains the amendments as proposed (See EOE-PI-02-30). The Final Regulation adds text to subsection 12.08(2)(a)(10) and *requires the Residence to include among the service limitations it must disclose, any limitation the Residence may impose on behavioral management services it may provide*. To achieve uniformity in the application of the regulations, the same text is added at subsection 12.08(3)(g).